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Attorneys for Defendants ELITE LABOR SERVICES WEEKLYS,
LTD. and ELITE STAFFING, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FERNANDO GOMEZ, on behalf of himself,
all others similarly situated,

Plaintiff,

v.

ELITE LABOR SERVICES WEEKLYS,
LTD., an Illinois corporation; ELITE
STAFFING, INC., an Illinois corporation;
SOUTHLAND EMPLOYMENT SERVICES,
INC., a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 20-1805

[State Court Case No. HG20053055]

**NOTICE OF REMOVAL OF CIVIL
ACTION UNDER 28 U.S.C. §§ 1331, 1441,
1446, AND 1453**

[FEDERAL QUESTION JURISDICTION]

[Filed concurrently with Declaration of Evan
Moses; Certification of Interested Parties and
Disclosure Statements; and Civil Case Cover
Sheet]

State Court Action Filed: February 3, 2020

TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants Elite Labor Services Weeklys, Ltd. (“Elite Labor Services”) and Elite Staffing, Inc. (“Elite Staffing”) (collectively referred to as “Defendants”) remove the above-entitled action from the Superior Court of the State of California, County of Alameda, to the United States District Court for the Northern District of California (“Notice”) on the grounds that the federal question jurisdiction of this Court is invoked under 28 U.S.C. § 1331.

I. SUMMARY OF STATE COURT ACTION.

1. Plaintiff Fernando Gomez (“Plaintiff”) filed this action on behalf of himself and all others similarly situated against Defendants in the Superior Court of the State of California, County of Alameda on February 3, 2020, Case No. HG20053059 (the “State Court Action”). *See* a true and correct copy of the Plaintiff’s Complaint (“Complaint”) attached hereto as **Exhibit A**. Copies of the Summons and Complaint were served on Defendants’ on February 12, 2020.¹ *See* a true and correct copy of Elite Staffing’s Proof of Service confirming Service of Process of the Summons and Complaint attached hereto as **Exhibit B**. Defendants timely filed an Answer in the State Court Action on March 13, 2020. *See* a true and correct copy of Defendants’ Answer attached hereto as **Exhibit C**.

2. The State Court Action asserts one cause of action for failure to make proper disclosures in violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681b(b)(2)(A). (*See* generally, **Exhibit A**, Complaint.)

3. Plaintiff’s Summons and Complaint as well as Defendants’ Answer constitutes all the pleadings on file in the State Court Action.

II. THIS NOTICE OF REMOVAL OF CIVIL ACTION IS TIMELY AND THIS VENUE IS PROPER.

4. If a complaint affirmatively reveals on its face the facts necessary for federal court jurisdiction, a defendant in a civil action must remove the action to federal court within 30 days

¹ To date, only Elite Staffing, Inc.’s Proof of Service has been filed.

after it is validly served with a summons and complaint. [28 U.S.C. § 1446(b)(1); *Rea v. Michaels Stores Inc.* (9th Cir. 2014) 742 F.3d 1234, 1237-38.]

5. As set forth *supra*, service of the Summons and Complaint on Elite Staffing, Inc. was effective on February 12, 2020.

6. This Notice of Removal of Civil Action is thus timely, as it is being filed with this Court within thirty (30) days of February 12, 2020, the date on which Elite Staffing was served through its registered agent.

7. Venue is proper in this Court, in that this is the Court for the district and division embracing the place where the action is pending in state court (Alameda County). 28 U.S.C. § 1441(a).

III. INTRADISTRICT ASSIGNMENT

8. Pursuant to Civil L.R. 3-2(c) and (e), this action shall be assigned to the San Francisco/Oakland Division as it arises in the County of Alameda.

IV. REMOVAL OF THIS ACTION IS APPROPRIATE AS THIS COURT HAS FEDERAL QUESTION JURISDICTION UNDER 28 U.S.C. § 1331

9. “The district courts shall have original jurisdiction of all civil actions arising under the . . . laws . . . of the United States.” 28 U.S.C. § 1331. “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

10. This action arises under the laws of the United States because Plaintiff brings claims under FCRA. This Court has original jurisdiction over all claims which are brought under the FCRA, and thus removal of this action is proper. *See, e.g., Smith v. Quality Loan Serv. Corp.*, No. Civ S-11-2108 KJM-EFB, 2012 WL 202055, at *6 (E.D. Cal. Jan. 23, 2012) (finding that removal based on FCRA was proper).

11. Plaintiff brings the claims under the FCRA on behalf of a nationwide putative class. Complaint ¶ 14(a) (the FCRA class is alleged to include “[a]ll of Defendants’ current, former and prospective applicants for employment in the United States who applied for a job with Defendants . . .”). (*See Exhibit A*, ¶ 14(a).)

V. **SATISFACTION REQUIREMENTS OF 28 U.S.C. § 1446**

12. In accordance with 28 U.S.C. §1446(a), this notice of removal is filed in the District Court of the United States in which the action is pending. The Superior Court of California, County of Alameda, is located within the Northern District of California. Therefore, venue is proper in this Court pursuant to 28 U.S.C. § 84(a) because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 114(a). In accordance with 28 U.S.C. §1446(a), this notice of removal is accompanied by **Exhibits A-C**, which are copies of all process, pleadings, and orders served upon Defendants.

13. In accordance with 28 U.S.C. §1446(b), and as detailed herein, Defendants’ Notice of Removal is timely.

14. In accordance with 28 U.S.C. §1446(d), Defendants will give written notice of the original removal of this action to Plaintiff via his counsel and file a copy of that Notice with the Superior Court of California, County of Alameda.

15. Defendants Elite Labor Services and Elite Staffing have been served with the Complaint; however, it is unclear if Southland Employment Services, Inc. (“Southland”) has been served. Further, counsel for Defendants contacted prior counsel for Southland and informed counsel that it would proceed with removing this action to Federal Court. (*See* Declaration of Evan Moses, (“Moses Decl.”), ¶ 6. Southland was not in a position to consent to or oppose removal. (*See* Moses Decl., ¶ 6.)

VI. **CONCLUSION**

16. Because this civil action presents a federal question, Defendants respectfully request that this Court exercise its removal jurisdiction over this action.

17. In the event this Court has a question regarding the propriety of this Notice of Removal, Defendants respectfully request that the Court issue an Order to Show Cause so that they may have an opportunity to supplement a more detailed brief outlining the basis for this removal.

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WHEREFORE, Defendants remove the above action to this Court.

DATED: March 13, 2020

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: /s/ Evan R. Moses
Evan R. Moses

Attorneys for Defendants ELITE LABOR
SERVICES WEEKLYS, LTD. and ELITE
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